

DOCKET NO.: C1039.70042US00

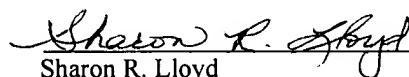
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Krieg et al.  
Serial No.: 09/630,319  
Confirmation No.: 5464  
Filed: July 31, 2000  
For: METHODS FOR TREATING AND PREVENTING  
INFECTIOUS DISEASE  
Examiner: Emily M. Le  
Art Unit: 1648

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**CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)**

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to MAIL STOP RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 12<sup>th</sup> day of December, 2007.

  
Sharon R. Lloyd

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**MAIL STOP RCE**


Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RESUBMISSION OF PTO FORM 1449 (MODIFIED PTO/SB/08)

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant previously submitted several Information Disclosure Statements which provided a listing of references. The Examiner did not consider many of these references. Applicant attaches hereto a PTO form 1449 listing all of the references previously submitted and not considered. Applicant requests that the Examiner consider each reference. Copies of the references are not enclosed as copies were previously submitted to the Office.

Respectfully submitted,

By:   
Helen C. Lockhart, Ph.D., Reg. No. 39,248  
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Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: C1039.70042US00  
Date: December 12, 2007



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Sharon R. Lloyd

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**MAIL STOP RCE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

This Information Disclosure Statement has been filed before the mailing of a first Office action after the filing of a request for continued examination under 37 C.F.R. §1.114.

No fee or certification is required.

PART III: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified PTO/SB/08). The order of presentation of the references should not be construed as an indication of the importance of the references.

The Applicant hereby makes the following additional information of record in the above-identified application.

The Applicant would like to bring to the Examiner's attention the following co-pending applications that may contain subject matter related to this application:

<u>Serial No.</u>	<u>Filing Date</u>	<u>Inventor(s)</u>	<u>Docket No.</u>
09/316,199	05-21-1999	McCluskie et al.	*C1040.70006US00
09/337,584	06-21-1999	Krieg et al.	*C1039.70020US00
09/337,893	06-21-1999	Krieg	*C1039.70022US00
09/630,319	07-31-2000	Krieg et al.	*C1039.70042US00
09/669,187	09-25-2000	Krieg et al.	*C1039.70035US00
09/786,436	09-03-1999	Wagner et al.	C1041.70010US00
10/187,489	07-02-2002	Krieg et al.	C1039.70062US00
10/811,226	03-26-2004	Wagner et al.	*C1041.70005US01
11/598,207	11-10-2006	Krieg et al.	*C1039.70048US24
11/629,106	12-08-2006	Lipford et al.	*C1041.70027US01
11/706,561	02-15-2007	Uhlmann et al.	*C1041.70046US02
11/725,339	03-19-2007	Schetter et al.	*C1041.70019US01
11/810,353	06-05-2007	Krieg et al.	*C1039.70048US25
11/901,712	09-17-2007	Schetter et al.	C1039.70069US01

\*A copy of this reference is not provided as the Office has waived the requirement under 37 C.F.R. 1.98(a)(2)(iii) for submitting a copy of a cited U.S. patent application if it is scanned to the Image File Wrapper system and is available on Private PAIR.

The Applicant would like to bring to the Examiner's attention the following other information:

**Office Communication mailed 12/22/2006 for Application No. 10/787,737 (C1039.70083US02)**

**Office Communication mailed 03/26/2007 for Application No. 10/787,737 (C1039.70083US02)**

Office Communication mailed 12/04/2006 for Application No. 10/847,650 (C1039.70083US08)

Office Communication mailed 08/22/2007 for Application No. 10/847,650 (C1039.70083US08)

The Applicant would like to bring to the Examiner's attention the following other information, whose relevance is discussed in Part III below:

PART III: Explanation of Non-English Language References and Remarks Concerning Other Information Cited

The following are remarks concerning the other information cited:

The instant patent application derives priority from US 6,207,646 B1, which was involved in an Interference (Interference No. 105,171). In view of the priority, Applicants have included on the attached 1449 a listing of all of the motions filed, the judgment rendered by the Board of Patent Appeals and Interferences, appeal briefs, and appeal decision, which considered the 35 U.S.C. §135(b)(1) motion dispositive. Additionally, US patent application 09/337,584 with claims directed to the treatment of asthma is now in an Interference (No. 105,526). Copies of papers filed with respect to that Interference are submitted herewith. If the Examiner would like any additional information on this subject, she is encouraged to contact Applicant's representative at the number listed below.

PART IV: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 (modified PTO/SB/08) be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his or her own conclusion regarding the relevance of the cited information.

An early and favorable action is hereby requested.

Respectfully submitted,

By:



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